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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/401,595	09/22/1999	KILIAN PETER HOCHREIN	FA/221	4868

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EXAMINER

JUSKA, CHERYL ANN

ART UNIT PAPER NUMBER

1771

DATE MAILED: 10/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/401,595

**Applicant(s)**

HOCHREIN ET AL.

**Examiner**

Cheryl Juska

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-12, 15-17, 19 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-12, 15-17, 19, and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed July 25, 2005, has been entered. Claims 10 and 19 are amended as requested. Claims 1-9, 13, 14, 18, 20, and 21 are cancelled, while new claim 22 is added. Thus, the pending claims are 10-12, 15-17, 19, and 22.

### ***Claim Rejections - 35 USC § 102/103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 10, 11, and 15-17 stand rejected under 35 USC 102(b) as being anticipated by, or in the alternative, under 35 USC 103(a) as being unpatentable over JP 06-047363 issued to Chikamori.

Applicant has amended independent claim 10 to include the limitation that the porous PTFE layer has an oleophobic coating adhered to the side opposite the fabric layer. However, said limitation is insufficient to overcome the Chikamori reference since said reference teaches an hydrophilic polymer coating on the porous film to prevent degradation from oil contact (section [0006]). Thus, claims 10, 11, and 15-17 stand rejected.

4. Claim 19 stands rejected under 35 USC 102(b) as being anticipated by, or in the alternative, under 35 USC 103(a) as being unpatentable over JP 06-047363 issued to Chikamori.

Applicant has not amended claim 19, but rather argues the "consisting essentially of" claim language (Amendment, page 5, 5<sup>th</sup> paragraph). The examiner respectfully disagrees.

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Specifically, Chikamori teaches the location and area of the windows or patches of porous film can be modified (section [0007]). As such, when said windows are modified to include a sufficiently large area, applicant's claim is met. Note "consisting essentially of" language only excludes elements that would alter the basic and novel characteristics of the invention. Thus, the area of the Chikamori windows can be large enough to maintain the basic and novel characteristics. Note MPEP 2111.03. In the alternative, it would have been readily obvious to one of ordinary skill in the art to increase the area of said windows in order to facilitate the amount of gas emissions from the waste as discussed by Chikamori.

5. Claim 22 is rejected under 35 USC 102(b) as being anticipated by, or in the alternative, under 35 USC 103(a) as being unpatentable over JP 06-047363 issued to Chikamori.

New claim 22 is drawn to a system for the aerobic treatment of biodegradable material comprising the inventive cover. Applicant asserts the claim to a system addresses the previous issues of intended use. The examiner respectfully disagrees. Specifically, said system merely comprises the cover. Applicant does not positively claim any other features of the system, such as the waste itself or a landfill. Since the only element claimed is the cover, the limitations of the claim are met if the limitations of the cover are met. However, it is noted that if applicant amends said claim to incorporate other elements, then the claim becomes a different invention (i.e., a final product to the intermediate cover product) which could be non-elected by original presentation.

#### ***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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7. Claim 12 stands rejected under 35 USC 103(a) as being unpatentable over the cited Chikamori reference for the reasons of record.

***Conclusion***

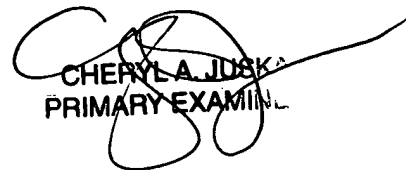
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
CHERYL A. JUSKA  
PRIMARY EXAMINER